THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE R. SUBHASH REDDY

-

Date: 30.08.2005

-

WRIT APPEAL NO : 884 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 15/03/2005 in WP NO : 20147 OF 2004 on the file of the High Court.)

Between:

Puppali Jayanthi, W/o Venkataiah,
(Elected Sarpanch) R/o Ekmai Village, Bashirabad Mandal, Ranga Reddy District.

..... APPELLANT

AND

1. The District Collector, Ranga Reddy at Lakdikapool, Hyderabad & others.

.... Respondents

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

and

THE HON'BLE MR JUSTICE R. SUBHASH REDDY

WRIT APPEAL NO :884 of 2005

JUDGMENT: (per the Hon'ble Sri Bilal Nazki, ACJ)

Vacate stay application has been filed. After hearing the learned counsel for the parties and with their consent, the writ appeal itself is disposed of.

The controversy is a very short one. The appellant was elected as Sarpanch and his election was challenged by way of an Election Petition by Respondent No.3 on the ground that the appellant was disqualified to get elected as she had three children on the relevant date. The Election Petition was allowed and there was a finding that the appellant had three children at the relevant time. The order was challenged before the learned single judge. The learned single judge also agreed with the Election Tribunal and dismissed the writ petition.

The grievance of the appellant is that while holding that the appellant was disqualified to contest the Tribunal also ordered appointment of Respondent No.3 as Sarpanch as she had secured highest number of votes after the appellant was excluded. The learned counsel submits that no such prayer was made in the Election Petition and it was not permissible for the Tribunal to declare Respondent No.3 as elected Sarpanch.

Whether it was permissible for the Election Authority in the present factual position to declare Respondent No.3 as elected or not, could not be necessary for us to decide in this petition as admittedly the respondent No.3 had not at all made any prayer that she should be declared to be elected as Sarpanch.

For that reason, we modify the order of the Tribunal as well as the learned single judge and while upholding the order declaring the appellant as disqualified, we also direct that fresh election shall be held and Respondent No.3 shall not be treated to have been elected as Sarpanch.

The writ appeal is accordingly disposed of. No costs.

_____

BILAL NAZKI, ACJ

DATE: 30th August, 2005

_____

R. SUBHASH REDDY,J

Pnb